

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Case # 21-CR-6012-FPG

v.

DECISION AND ORDER

MARTIN HOGAN,

Defendant.

With the consent of Defendant Martin Hogan, the Court referred this matter to Magistrate Judge Jonathan W. Feldman for purposes of taking Defendant's guilty plea. ECF No. 19. On July 28, 2021, Magistrate Judge Feldman conducted the plea hearing, and Defendant pleaded guilty to one count of conspiracy to commit wire fraud. *See* ECF Nos. 2, 21. On the same day, Magistrate Judge Feldman filed his Report & Recommendation ("R&R"), recommending that the Court "adjudge Defendant guilty of the offense(s) to which the guilty plea was offered." ECF No. 20 at 1. No objections have been filed to the R&R.

A district court reviews those portions of an R&R to which a party has timely objected *de novo*. Fed. R. Crim. P. 59(b)(3). When a party does not object to a portion of an R&R, or when the objections are conclusory, general, or without legal support, a district court reviews those portions for clear error. *See United States v. Preston*, 635 F. Supp. 2d 267, 269 (W.D.N.Y. 2009).

After reviewing the R&R and the objections thereto, a district court "may accept, reject, or modify the recommendation." Fed. R. Crim. P. 59(b)(3). In addition, "[t]he Second Circuit has instructed that where a Magistrate Judge conducts an evidentiary hearing and makes credibility findings on disputed issues of fact, the district court will ordinarily accept those credibility findings." *United States v. Lawson*, 961 F. Supp. 2d 496, 499 (W.D.N.Y. 2013); *see also Carrion v. Smith*, 549 F.3d 583, 588 (2d Cir. 2008).

The Court has reviewed the record, the hearing transcript, and the other filings pertinent to Defendant's guilty plea and the R&R. Based on that review, the Court discerns no error, much less clear error, in Magistrate Judge Feldman's thorough plea colloquy and recommendation. Accordingly, the Court ADOPTS Magistrate Judge Feldman's R&R (ECF No. 20) in all respects, ACCEPTS Defendant's plea of guilty to Count 1 of the Indictment (ECF No. 2), and ADJUDGES Defendant guilty of conspiracy to commit wire fraud. The deadlines pertinent to sentencing remain as scheduled. *See* ECF No. 27.

IT IS SO ORDERED.

Dated: March 29, 2022
Rochester, New York



HON FRANK P. GERACI, JR.
United States District Judge
Western District of New York